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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,911	04/15/2004	Karl-Heinz Pfau	REP-0022-P	7616

7590 08/26/2004

CONTOR COLBURN LLP
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EXAMINER

TORRES, MELANIE

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/824,911	Applicant(s) PFAU ET AL.	
	Examiner Melanie Torres	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-16 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed April 15, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because copies of FR 1074160, FR2759649, DE 2046445 and WO 93/03652 have not been received. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1). Further, the International Search report has been considered, but is not an appropriate listing for an Information Disclosure Statement.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 10, 11. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the

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changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informalities: The last paragraph of claim 1 is awkward and should be re-written. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 8-10, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by DE317362.

Re claims 1-6, 8-10, 14 and 16, DE317362 discloses a spring suspension mat, for the cushioning of all types of seats, beds or chairs, said spring suspension mat having spring members (6), which are disposed in a first direction adjacent each other substantially parallel to a surface which is useable by a user, with a plurality of spring parts (4) which are raised transversely relative to the useable surface and form with the spring members one-piece portions of the spring members and are formed from these latter, wherein the spring parts (4) are, deformable individually, independently of each

other in a resilient manner also relative to the rest of the spring member, are interconnected via connecting means (2', 3) transversely relative to their first direction substantially parallel to the surface for operative connection, wherein the spring parts (4) have at least in places such a small bending radius that the spring parts, when there is a resilient deformation, where necessary, are reducible up to approximately the material strength of the spring parts, then being in the folded-together condition, in a loading direction transversely relative to the useable surface.

Re claims 1, 2, 5-8, 10-12, 13, and 16, Heerklotz discloses a spring suspension mat, for the cushioning of all types of seats, beds or chairs, said spring suspension mat having spring members (lower 2'''), which are disposed in a first direction adjacent each other substantially parallel to a surface which is useable by a user, with a plurality of spring parts (upper 2''') which are raised transversely relative to the useable surface and form with the spring members one-piece portions of the spring members and are formed from these latter, wherein the spring parts are, deformable individually, independently of each other in a resilient manner also relative to the rest of the spring member, are interconnected via connecting means (5) transversely relative to their first direction substantially parallel to the surface for operative connection, wherein the spring parts have at least in places such a small bending radius that the spring parts, when there is a resilient deformation, where necessary, are reducible up to approximately the material strength of the spring parts, then being in the folded-together condition, in a loading direction transversely relative to the useable surface. (Figure 5)

Re claim 11, Heerklotz teaches wherein the suspension mat is produced from plastics. However, Heerklotz does not teach wherein the mat is produced by means of injection molding or deep-drawing. This claim is interpreted by the examiner to be a product-by-process. Product-by-process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE317362.

Re claim 15, DE317362 does not teach wherein the overall height of the spring suspension mat is between 8 and 20 mm. It would have been an obvious matter of design choice to modify DE317362 to have an overall height between 8 and 20 mm since applicant has not disclosed that having the height solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well at a variety of different heights.

Conclusion

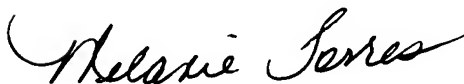
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kil et al., Furusawa et al., King et al., Volsk, and Dunajeff teach spring suspension mats.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (703)305-0293. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703)308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MT
August 23, 2004